

rected in place of whole milk, it would give the same results as would whole milk; that, when used as directed, it would give feeding results equal to those resulting from the use of separated milk; that it would give skim milk feeding results when fed to pigs; that it would give separated milk feeding results at less than half the cost of separated milk; that, when fed as directed, it would insure rapid growth in calves, pigs, and poultry; and that results obtained from feeding 1 pound of the article would equal the results obtained from feeding 85 pounds of separated milk were false and misleading since it would not give the results claimed.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

On February 6, 1943, the defendants entered a plea of guilty and the court imposed a fine of \$100, which was applicable to both defendants.

5689. Misbranding of Dr. MacDonald's Vitamized Chick & Growing Mash Maker, and adulteration and misbranding of Dr. MacDonald's Vitamized Egg Mash Maker and Dr. MacDonald's Vitamized Metabolators for Dairy Cattle, Swine, Calves, Beef Cattle, and Sheep. U. S. v. 9 Bags of the Egg Mash Maker, 8 Bags of the Chick & Growing Mash Maker, and the following quantities of the Vitamized Metabolators: For Dairy cattle, 23 bags; for swine, 101 bags; for calves, 1 bag; for beef cattle, 27 bags; for sheep, 10 bags. Decrees of condemnation. Products ordered released under bond for relabeling. (F. D. C. Nos. 10951, 11085. Sample Nos. 8241-F, 8242-F, 8565-F, 8566-F, 8568-F to 8570-F, incl.)

On October 22 and November 10, 1943, the United States attorney for the District of Minnesota filed libels against a total of 179 100-pound bags of the above-named products at St. Paul, Minn., alleging that they had been shipped in interstate commerce on or about March 20, May 14, and September 22, 1943, by the Vitamized Feed Co., Fort Dodge, Iowa; and charging that the Chick & Growing Mash Maker was misbranded and that the other products were adulterated and misbranded.

Examination of the Egg Mash Maker showed that it consisted of ground limestone, salt, charcoal, sulfur, and small amounts of iron sulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, and plant material including ginger. The iodine content was not more than 0.03 percent. It was alleged to be adulterated in that a valuable constituent, iodine, had been in part omitted therefrom. It was alleged to be misbranded in that the statement in its labeling, "Iodine (I) Not Less Than03906 Per Cent," was false and misleading as applied to a product deficient in iodine. It was alleged to be misbranded further in that certain statements in its labeling which represented and suggested that the article, when fed to poultry, was effective to produce high egg production, and would increase vitality, insure greater hatchability of eggs, improve utilization of food, and prevent or correct many nutritional deficiency diseases were false and misleading since the article was not so effective.

Examination of the Chick & Growing Mash Maker showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, iron oxide, copper sulfate, sodium thiosulfate, sodium bicarbonate, potassium iodide, oil, yeast, plant material including a cereal, and ginger. It was alleged to be misbranded in that certain statements in its labeling, which suggested and implied that the article was vitamized; that it would stop chick losses; that it would prevent any disease condition of chicks or chickens; that it would help to keep the chicks in good health; that it would help to produce healthy, mature birds in the shortest possible time; that it was a balancer of feeds; that it would reduce mortality due to unbalanced feeds; that it would increase egg production and build greater resistance to disease; that it would help guard against chick mortality; that it would help to grow chicks at a faster rate in a shorter period of time at less cost; that it would increase the flow of digestive juices and body secretions; that it would build strong, vigorous, thrifty chicks; that it would promote strong bone structure, rapid growth, and improve flock health and vigor; that it would ward off nutritional deficiency diseases; and that it would build up resistance against infectious diseases, were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Dairy Cattle showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, and plant material including ginger, fenugreek, and anise. The phosphorus content was not more than 2.85 percent and the iodine content was not more than 0.034

percent. It was alleged to be adulterated in that the valuable constituents, iodine and phosphorus, had been in part omitted therefrom. It was alleged to be misbranded in that the statements in its labeling, "Phosphorus (P) Not Less Than . . . 5%," and "Iodine (I) Not Less than0625%," were false and misleading as applied to a product containing less phosphorus and less iodine than stated; and in that the statements in its labeling which represented and suggested that the article would promote metabolism; and that, when fed to cows and calves, it would be effective to increase milk production, and would promote better digestion and assimilation of foods, insure health and production of sturdy calves, and lower feed costs by increasing utilization of foods, were false and misleading since the article was not so effective.

Examination of the Metabolator for Swine showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, yeast, plant material including fenugreek, and a cereal. It was found to contain not more than 0.01 percent of iodine, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constituent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that it was vitamized; that it would promote metabolism; that it would prevent death losses; that it would insure against losses due to any causes; that it would prevent pigs from developing white and black scours; that it was effective in the treatment of the disease condition known as necro; that it would increase benefits of home grown grains; that it would help improve health of stocks through better nutrition; that it would increase the profits from swine; that it would increase reproductive ability; that it would insure large litters of husky pigs; that it would improve the digestive ability of feeds and increase the flow of saliva and digestive juices; that it would produce a better utilization of the feed; that it would prevent the disease conditions known as scours, pneumonia, worms, necro enteritis, or any other contagious diseases; that it would help produce big, strong, healthy litters; that it would increase the milk production of sows; that it would help produce strong and healthy pigs; and that it would save pigs and would help to combat scours, necro, worms, or other pig diseases, were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Calves showed that it consisted essentially of ground limestone, charcoal, sulfur, salt, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, oil, yeast, and plant material, including fenugreek, anise, and a cereal. It was found to contain not more than 3.11 percent of phosphorus and not more than 0.038 percent of iodine, whereas its label stated that it contained not less than 4.5 percent of phosphorus and not less than .0625 percent of iodine. It was alleged to be adulterated in that the valuable constituents, iodine and phosphorus, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that it was vitamized; that it would promote metabolism; that it would prevent or cure scours in calves; and that it would prevent scours due to vitamin A and B deficiencies were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Beef Cattle showed that it contained charcoal, ground limestone, salt, sulfur, and small proportions of iron sulfate, copper sulfate, sodium thiosulfate, sodium bicarbonate, potassium iodide, oil and plant material, including fenugreek, anise ginger, and a cereal. It was found to contain 0.040 percent of iodine, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constituent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that the article was vitamized; that it would promote metabolism; that it would help promote better digestion and assimilation of feed; that it would help keep the animal on full feed; that it would help stimulate the flow of saliva and other important digestive juices; that it would produce rapid growth, health, and reproduction; that it would promote nutritional balance; and that it would promote a smoother or more even flesh, and a glossy coat of hair, were false and misleading since the use of the article would not affect the results suggested or implied by such statements.

Examination of the Metabolator for Sheep showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, yeast, and plant material including anise, fenugreek, ginger, and a cereal. The iodine content was not more than 0.038 percent, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constituent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that the article was vitamized; that it would promote metabolism; that it would make sheep, wool, and mutton production profitable; that it would produce husky lambs; that it would increase the milk flow at lambing time; that it would help the reproductive processes; that it would produce better utilization of food; that it would stimulate the appetite; and that it would produce a fine finish and high-quality carcass were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

The articles, with the exception of the Metabolator for Dairy Cattle, were alleged to be misbranded also under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On December 14 and 22, 1943, the Vitamized Feed Company, claimant, having admitted the material allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

5690. Adulteration and misbranding of frozen eel pout fillets. U. S. v. 143 Cartons of Frozen Eel Pout Fillets (and 3 other seizure actions against frozen eel pout fillets). Default decrees of condemnation and destruction. (F. D. C. Nos. 12309, 12351, 12379, 12436. Sample Nos. 76417-F, 76418-F, 82001-F, 82002-F, 82004-F.)

On May 4, 12, 17, and 26, 1944, the United States attorney for the Southern District of New York filed libels against 193 cartons, each containing 15 pounds, 103 boxes, each containing 15 pounds, and 74 cartons, each containing 20 pounds, of frozen eel pout fillets at New York, N. Y., alleging that the article had been shipped within the period from on or about March 1 to 25, 1944, by the Star Fillet Co., Provincetown, Mass.; and charging that it was adulterated and that some portions were misbranded. One portion was labeled in part: "Skinless Pout Fillet Slade-Gorton Commonwealth Cold Storage Boston Mass." The remainder was unlabeled except for net weight statements punched on the end of the cartons.

All lots were alleged to be adulterated in that the article consisted in whole or in part of a filthy substance since it contained parasitized fish, and in that it was in whole or in part of the product of a diseased animal.

Some portions were alleged to be misbranded in that the article was in package form and failed to bear a label that contained the name and place of business of the packer or distributor, and in that the label failed to bear the common or usual name of the food. Some portions were further misbranded in that the statement "Net Wt. 10 Lbs" was false and misleading as applied to a carton that contained 15 pounds; and in that it was food in package form and failed to bear a label that contained an accurate statement of the quantity of the contents.

On May 27, and June 6 and 12, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5691. Adulteration and misbranding of frozen eel pout fillets. U. S. v. 146 Boxes and 132 Cartons of Frozen Eel Pout Fillets. Default decrees of condemnation and destruction. (F. D. C. Nos. 12461, 12462. Sample Nos. 82006-F, 82008-F.)

On or about May 31 and June 9, 1944, the United States attorney for the Southern District of New York filed libels against 146 boxes and 132 cartons, each containing 10 pounds, of frozen eel pout fillets at New York, N. Y., alleging that the article had been shipped on or about May 18 and 23, 1944, by the Dartmouth Fillet Corporation, New Bedford, Mass.; and charging that it was adulterated and that one portion was also misbranded. One lot was unlabeled.

Both lots were alleged to be adulterated in that the article consisted in whole or in part of a filthy substance by reason of the presence of parasitized eel pout